



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS-5536-N]

Medicare Program; MIPS Payment Adjustment Exception Applicable for Enhancing Oncology Model Monthly Enhanced Oncology Services (MEOS) Payments

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Payment advisory.

SUMMARY: This advisory is to inform potential Enhancing Oncology Model (EOM) applicants and participants that the Merit-based Incentive Payment System (MIPS) payment adjustment factors will not apply to Monthly Enhanced Oncology Services (MEOS) payments in EOM.

DATES: This action is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Alexandra Chong, (410) 786-8988.

SUPPLEMENTARY INFORMATION:

I. Background

In the calendar year (CY) 2019 Physician Fee Schedule (PFS) final rule (83 FR 59887), we finalized amendments to 42 CFR 414.1405(e) effective January 1, 2019 such that Merit-based Incentive Payment System (MIPS) payment adjustment factors would apply to Part B payments for covered professional services as defined in section 1848(k)(3)(A) of the Social Security Act (the Act).

In the CY 2019 PFS final rule, per the authority in section 1115A(d)(1) of the Act to waive the requirement to apply the MIPS payment adjustment factors under section

1848(q)(6)(E) of the Act and § 414.1405(e) because the waiver is necessary solely for purposes of testing models that involve such payments, we also finalized an exception to § 414.1405(e) at § 414.1405(f), such that the MIPS payment adjustment factors do not apply to model-specific payments that meet all the following conditions:

- Are made only to participants in a model tested under section 1115A of the Act.
- Would otherwise be subject to the requirement to apply the MIPS payment adjustment factors if the payment is made with respect to a MIPS eligible clinician participating in a section 1115A model.
- Either have a specified payment amount or are paid according to a methodology for calculating a model-specific payment that is applied in a consistent manner to all model participants, such that application of the MIPS payment adjustment factors would potentially interfere with CMS's ability to effectively evaluate the impact of the APM.

In the CY 2019 PFS final rule, we also finalized that we would provide public notice of the applicability of this waiver for a particular model by: (1) updating the Quality Payment Program website (www.qpp.cms.gov) when new model-specific payments subject to this waiver are announced; and (2) providing notification in the **Federal Register** to update the public on any new model-specific payments to which this waiver will apply.

The Enhancing Oncology Model (EOM) and associated Request for Application (RFA) was announced on [June 27, 2022]. Under EOM, which builds on lessons learned to date from the Oncology Care Model (OCM), participating physician practices will take on financial and performance accountability for episodes of care surrounding systemic chemotherapy administration to cancer patients who are EOM beneficiaries, by way of a potential lump-sum performance-based payment or performance-based recoupment, and will have the opportunity to submit claims for an EOM Monthly Enhanced Oncology Services (MEOS) payment for Enhanced Services furnished to EOM beneficiaries. EOM is a 5-year voluntary model tested per the authority under section 1115A of the Act that aims to improve quality and reduce costs

through its payment methodology being aligned with care quality, and through EOM participants' opportunities to redesign care and improve the quality of care furnished to beneficiaries receiving care for certain cancers, including requirements to implement participant redesign activities and to engage in activities that promote health equity. More information regarding EOM, and a link to the EOM RFA, can be found at <https://innovation.cms.gov/innovation-models/enhancing-oncology-model>.

EOM will include an EOM MEOS payment for non-dually eligible beneficiaries and an EOM MEOS payment for dually-eligible beneficiaries, and each will be a per beneficiary per month (PBPM) payment under EOM only with a model-specific Healthcare Common Procedure Coding System (HCPCS) code paid through the Medicare fee-for-service claims system for the provision of Enhanced Services, as outlined in the section V.C.ii. of the EOM RFA.

II. Applicability to EOM MEOS Payments

This payment advisory serves to notify potential EOM applicants and participants that the MIPS payment adjustment factors will not apply to the EOM MEOS payments. The EOM MEOS payments meet the criteria described in § 414.1405(f)(1) through (3) for the following reasons:

- The EOM MEOS payments will only be made to EOM participants and EOM is a model tested under section 1115A of the Act.
- The EOM MEOS payments may be subject to the requirement to apply the MIPS payment adjustment factors as the EOM MEOS payments would be made to MIPS eligible clinicians participating in EOM.
- The EOM MEOS payments will be one of two specified payment amounts that will be offered in a consistent manner to all EOM participants, a fixed PBPM payment for non-dually eligible beneficiaries (currently planned to be \$70 PBPM) and a fixed PBPM payment for dually eligible beneficiaries (currently planned to be \$100 PBPM), to support the provision of Enhanced Services to EOM beneficiaries.

As such, the application of the MIPS payment adjustment factors to the EOM MEOS payments would introduce variation in the EOM MEOS amounts paid to different EOM participants which could potentially interfere with our ability to effectively evaluate the impact of EOM and therefore potentially compromise the model test.

This waiver would begin at the beginning of EOM and continue for the duration of EOM. In addition to this **Federal Register** document, we will also provide public notice that 42 CFR 414.1405(e) will not apply to the EOM MEOS payment on the Quality Payment Program website, at www.qpp.cms.gov.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Trenesha Fultz-Mimms, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Trenesha Fultz-Mimms,
Federal Register Liaison,
Centers for Medicare & Medicaid Services.
[FR Doc. 2022-15062 Filed: 7/13/2022 8:45 am; Publication Date: 7/14/2022]